

The Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

BRANDON TOLE, an individual,  
Plaintiffs,  
vs.  
AMAZON.COM SERVICES LLC; a  
Delaware Limited Liability Company;  
Defendant.

**CASE NO. 2:22-CV-00594-MJP**

**PLAINTIFF TOLE’S MOTION FOR  
LEAVE TO FILE THE CONFIDENTIAL  
SETTLEMENT AGREEMENT UNDER  
SEAL AND FOR LEAVE TO FILE  
SUPPLEMENTAL BRIEF IN RESPONSE  
TO THE COURT’S ORDER ON JOINT  
MOTION TO APPROVE CONSENT  
DECREE [DKT. 163]**

NOTE ON MOTION CALENDAR:  
FRIDAY, FEBRUARY 21, 2025

Plaintiff Brandon Tole (“Plaintiff”) respectfully files this Motion for Leave to File the Confidential Settlement Agreement Under Seal to provide the Court with the subject Settlement Agreement, and for leave to file a Supplemental Brief in response to the Court’s Order on Joint Motion to Approve Consent Decree (Dkt. No. 163) following the Parties’ Joint Stipulated Motion for Approval and Entry of Consent Decree (Dkt. No. 147). This Motion is being filed to provide further information and explanation to support the jointly requested finding included in the Proposed Consent Decree at paragraph 7(c). Dkt. No. 147-2.

## I. INTRODUCTION

On December 20, 2024, the parties submitted a Joint Stipulated Motion for Entry of Consent Decree. Dkt. 147, 147-1, 147-2. On January 24, 2025, this Court granted the Parties' Joint Motion, however, it included the following modifications to the proposed Consent Decree: whether the relief granted is consistent with USERRA; whether it conformed with the Federal Rules of Civil Procedure; and, whether the proposed decree is "not in derogation of the rights and privileges of any person." Dkt. 163. Specifically, the Court struck paragraph 7(c) from the Consent Decree, which stated:

This Decree confirms with the Federal Rules of Civil Procedure and USERRA, and is not in derogation of the rights and privileges of any person. The entry of the Decree will further the objectives of USERRA and will be in the best interest of the parties.

Dkt. 164, p. 2:24-26.

The Court stated it was unable to make those findings in the proposed Consent Decree because it lacked the necessary information on which to do so, such as a copy of the settlement agreement. Dkt. 163, p.2:1-13.

The Parties have not provided the Court with a copy of the settlement agreement, and, as such, the Court is without any means of determining what relief may or may not have been accorded to Plaintiff and whether and how that is consistent with USERRA.

*Id.*

Following this Court's Order, on January 28, 2025, counsel for Plaintiff contacted counsel for Amazon to meet and confer regarding the Order and providing the Court with additional information and the Settlement Agreement under seal, as this Court suggested was necessary to support the requested findings proposed at paragraph 7(c) in the [Proposed] Consent Decree. *Id.*; Decl. of Brian Lawler ("Lawler Decl."), ¶2; Exh. 1 to Lawler Decl. Amazon's counsel has refused to join any supplemental brief or motion; and has indicated its opposition to providing a copy of the Confidential Settlement Agreement to the Court. *Id.*

## II. ARGUMENT

In its Order, the Court indicated that it “remains open to further consideration of these proposed findings, but the Parties must provide sufficient information and explanation as to why such findings are proper.” Dkt. No. 163, p 2:11-13. As such, Plaintiff requests the ability to provide additional information, including the Confidential Settlement Agreement itself, in support of the proposed material findings the Parties agreed to in the Proposed Consent Decree.

Plaintiff’s counsel met and conferred with Amazon’s counsel in an attempt to reach agreement on the need to file the document under seal, to minimize the amount of material filed under seal, and to explore redaction and other alternatives to filing under seal. Lawler Decl., ¶2. Amazon declined the invitation to join in additional briefing relating to the entry of the Proposed Consent Decree and has objected to providing a copy of the Confidential Settlement Agreement to the Court for consideration of the proposed findings. *Id.* However, because the Court stated that it was “without any means of determining what relief may or may not have been accorded to Plaintiff and whether and how that is consistent with USERRA” (Dkt. No. 163, p. 2:4-6), Plaintiff believes it is proper and appropriate to provide the Settlement Agreement to the Court under seal to preserve its Confidentiality while informing the Court of its terms, and to allow for the presentation of sufficient information and explanation to support the determination by the Court that the proposed findings set forth in paragraph 7(c) of the Proposed Consent Decree are proper. Proposed Consent Decree § 7(c) (Dkt. No. 147-2).

Amazon is apparently concerned about the agreement being made public and has baselessly opined in the meet and confer process that Plaintiff asking the Court for an order to file it under seal would violate the confidentiality terms of the Settlement Agreement. Exh. 1 to Lawler Decl. Amazon has cited no authority for this proposition, and given this Court’s Order, it appears to Plaintiff that this Court wants to see it. And since the parties previously agreed to the language in paragraph 7(c) of the Proposed Consent Decree, it would stand to reason that Amazon should want that paragraph restored, as Plaintiff does. It is clear that the Settlement Agreement is required to be provided to the Court to allow for the determination of the material findings in the Proposed

1 Consent Decree as agreed upon by the Parties.

2 Accordingly, to resolve the Court's concerns regarding the Proposed Consent Decree,  
3 Plaintiff respectfully moves this Court for Leave to File the Settlement Agreement Under Seal to  
4 support the material findings in paragraph 7(c) of the Proposed Consent Decree.

### 5 **III. CONCLUSION**

6 For the reasons set forth more completely above, Plaintiff respectfully requests this Court  
7 order Plaintiff to file the Confidential Settlement Agreement under seal, and grant leave for  
8 Plaintiff to file a short Supplemental Brief (not exceeding five (5) pages) to provide sufficient  
9 information and explanation as to why the proposed findings in paragraph 7(c) of the Proposed  
10 Consent Decree are proper in the context of the Settlement Agreement, within three (3) days of  
11 entry of said Order.

12 DATED: January 31, 2025

13 /s/ Brian J. Lawler

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*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that on January 31, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a notification of the filing to all registered users of the CM/ECF system.

Dated: January 31, 2025

s/ Brian J. Lawler  
Brian J. Lawler